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The ACLU of Michigan submits this statement in support of HB 6020, which would modernize Michigan's HIV criminalization law. This amendment to MCL 333.5210 is very much needed because the current law criminalizes HIV status, regardless of whether there is criminal intent, and subjects people living with HIV to harsh penalties for behaviors that either do not transmit HIV or result in the actual transmission of HIV.

When MCL 333.5210 was first passed in 1988, testing positive for HIV was considered to be a possible death sentence, due to many people developing Acquired Immune Deficiency Syndrome (AIDS). Thirty years later, thanks to incredible developments in medical treatment protocols for HIV, persons testing positive for HIV can live long healthy lives, often with undetectable viral loads. And yet, despite this medical and scientific progress, laws like Michigan's continue to stigmatize and marginalize people living with HIV. Michigan's current law imposes penalties, including incarceration, even when there is no actual transmission of HIV.

This form of criminalization and stigmatization prevents people from being tested for HIV and getting early intervention treatment, so that they can stay healthy and avoid health complications. Since HIV criminalization laws make knowing your status a potential liability, some people choose not to take the test in order to avoid possible criminal charges. The Sero Project survey of HIV positive individuals found that half of respondents said that it was not reasonable to get tested, and thus obtain treatment, to avoid jail time. This defeats all the medical gains that we have made regarding living with this virus, if people do not get tested and treated.

Furthermore, laws like Michigan's make transmission of HIV a worse offense than assault with a deadly weapon, even though we know that having HIV in 2018 is not a death sentence. It also places more costs on the state to monitor and penalize the person, rather than on the money it would cost to treat and keep a person healthy. The current law is an unnecessary burden on tax payers.

While the ACLU of Michigan does take issue with HB 6020's continued definition of "sexual penetration," which clearly includes behaviors that could not possibly transmit HIV, we believe that this legislation goes a long way towards removing the stigma associated with testing positive for HIV and treating this virus as a public health issue, rather than a criminal justice issue.

Sincerely,

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